IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22092 of 2004

Between:

V. Krishnama Charyulu, S/o. Late V.V. Seshavataram,
(Operation), Working in the O/o.the General Manager, BSNL, Subhasnagar,
Nizamabad.

..... PETITIONER

AND

1. The General Manager, B.S.N.L, Subhashnagar, Nizamabad.
2. The Chief General Manager, BSNL, A.P. Circle, Hyderabad.
3. The Chairman Managing Director, BSNL, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ order or direction more in the nature of Mandamus declaring the Lr. No. GMTD-NZB/X/Disc/VKC/04-05/60, dated 25-9-2004 issued by the General Manager, Telecom District, Nizamabad refusing to defer the departmental inquiry into the Charge Sheet NO. GMTD-NZBD/X/Disc/VKC/04-05/47, dated 6-7-2004 issued by the General Manager, Telecom District, Nizamabad as illegal, arbitrary, discriminatory and violative of Art. 14, 16 and 21 of the Constitution and consequently direct the respondents to defer the departmental inquiry into the said charge sheet pending disposal of the RC. No.02(A)/2003-CBI/Hyd,on the file of the court of the Hon'ble Special Judge for C.B.I. cases, Hyderabad.

Counsel for the Petitioner: MR.K.VENKATESWARA RAO

Counsel for the Respondents: Mr.T.Hanumantha Reddy

The Court at the stage of admission made the following :

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ORDER:

This writ petition is filed to issue a writ of Mandamus declaring Letter No. GMTD-NZB/X/Disc/VKC/04-05/60, dated 25-9-2004 issued by the General Manager, Telecom District, Nizamabad refusing to defer the departmental inquiry initiated against the petitioner in respect of the Charge Sheet NO. GMTD-NZBD/X/Disc/VKC/04-05/47,dated 6-7-2004 issued by the General Manager, Telecom District, Nizamabad till the disposal of the criminal case pending against the petitioner as arbitrary and illegal.

The petitioner who was working as a Junior Telecom Officer, BSNL, Nizamabad was charged for accepting bribe of Rs.3,000/- from one N.Sekhar Reddy and also falsifying the records. The Central Bureau of Investigation conducted investigation in respect of the said incident alleged to have been taken place on 24.01.2003 and filed the charge sheet on the file of the Special Judge for C.B.I.cases, Hyderabad and was taken on file as C.C.No.18 of 2004.

Learned counsel for the petitioner contended that since the evidence to be adduced in the criminal case in C.C.No.18 of 2004 on the file of the Special Judge for C.B.I., cases, Hyderabad as well as in the departmental enquiry is one and the same, the departmental proceedings cannot be proceeded further till the conclusion of the criminal case.

On the other hand, learned counsel for the respondents contended that there is no bar for the department to proceed further with the departmental enquiry and the purpose and the object of the departmental enquiry and the criminal case are different and therefore, there is no need to stall the departmental proceedings.

It is well settled that when the evidence to be let in both in the departmental proceedings and criminal case is based on the same set of evidence, then normally the departmental proceedings have to be stayed till the conclusion of the criminal case. As seen from the record, the witnesses cited in the departmental proceedings and charge sheet in the criminal case are one and the same. Therefore, the respondents cannot proceed further in the departmental proceedings since in respect of the same incident, the criminal case is also pending.

Therefore, the writ petition is disposed of with a direction to the respondents not to proceed further with the departmental enquiry till the disposal of the criminal case in C.C.No.18 of 2004 on the file of the Special Judge for C.B.I cases, Hyderabad. However, the respondents may proceed with the enquiry,

i) When the respondents consider that undue delay is taking place in the criminal case in C.C.No.18 of 2004 for the reasons attributable to the accused; and

ii) if the accused is protracting the criminal case in C.C.No.18 of 2004.

No order as to costs.

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K.C.BHANU, J

Dated : 13th December, 2004.

Sh/Bsv

To

1. The General Manager, B.S.N.L, Subhashnagar, Nizamabad.
2. The Chief General Manager, BSNL, A.P. Circle, Hyderabad.
3. The Chairman Managing Director, BSNL, New Delhi.

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